

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANN OTSUKA, et al.,

No. C 07-02780 SI

Plaintiffs,

**ORDER RE: MOTION TO DISMISS
PLAINTIFF ANN OTSUKA**

v.

POLO RALPH LAUREN CORPORATION, et
al.,

Defendants.

Defendants have filed a letter brief in response to class representative and named plaintiff Ann Otsuka's failure to appear at her scheduled deposition and failure to remain in contact with her attorney. Defendants ask that the Court dismiss Otsuka from this action and award sanctions for Otsuka's failure to appear at her deposition. The Court finds that sanctions are not appropriate because Otsuka's counsel notified defendants that he could not locate Otsuka and that they would not be able to appear at the noticed deposition. Furthermore, while the Court has grave concerns about Otsuka's ability to represent the class, the Court believes her fitness as a class representative is better addressed through the class certification process. At the very least, the Court agrees with Otsuka's counsel that Otsuka is entitled to remain a member of the class, even if not a class representative, and thus should not be dismissed from all aspects of the action.

IT IS SO ORDERED.

Dated: June 20, 2008



SUSAN ILLSTON
United States District Judge